

# **EXHIBIT L**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

IN RE: \* PROMESA TITLE III  
\*  
THE FINANCIAL OVERSIGHT AND \* CASE NO. 3:17-bk-03283 (LTS)  
MANAGEMENT BOARD FOR PUERTO RICO \*  
\*  
As representatives of \*  
\*  
THE COMMONWEALTH OF PUERTO RICO \*  
RICO; Et Al. \*  
\*  
Debtor \*  
\*\*\*\*\*  
IN RE: \* PROMESA TITLE III  
\*  
THE FINANCIAL OVERSIGHT AND \* CASE NO. 3:17-cv-01685 (LTS)  
MANAGEMENT BOARD FOR PUERTO RICO \*  
\*  
As representative of \* CASE NO. 3:17-bk-03566 (LTS)  
\*  
THE EMPLOYEES RETIREMENT SYSTEM \*  
OF THE GOVERNMENT OF THE COMMON- \*  
WEALTH OF PUERTO RICO \*  
\*  
Debtor \*  
\*\*\*\*\*

DEPOSITION OF MR. MOHAMMAD SALEH YASSIN-MAHMUD

DATE : MAY 29, 2019  
TIME : 9:03 a.m.  
CLIENT : JONES DAY  
ADDRESS : 600 Brickell Avenue, Suite 3300  
Miami, Florida  
HELD AT : Delgado & Fernández  
Professional Offices Complex  
1001 San Roberto Street  
Second floor  
San Juan, Puerto Rico

1 checks but you should check with Hacienda, I think they're  
2 like deposits.

3 MR. STEWART:

4 Q Like a wire transfer or something like that?

5 A I believe, I, Hacienda will be able to give you  
6 that detail.

7 Q Okay. We'll ask. Thank you. Okay. The  
8 calculation of pay-as-you-go charge...

9 A Yes.

**REDACTED**

1 MR. SUSHON:

2 Object to the form.

3 DEPONENT:

4 Yes.

5 MR. STEWART:

6 Q It does, it still do so?

7 A Yes, I believe so.

8 Q Okay. Where in AAFAF is that function housed?

9 A Currently be in the financial advisory side,  
10 should be in the financial advisory side.

11 Q And do you know how they do it?

12 A Without going into privileged materials it's  
13 mainly by how much actually gets paid to pensioners we  
14 trace back who that pensioner retired from that is I think  
15 filed and computed, how do you call that, the employer and  
16 pursuant to ACT 106 and back then Joint Resolution 188  
17 that person would have to make the pay-as-you-go charge  
18 which mainly is the, the or principally is the, the amount  
19 that actually gets paid to the pensioners and in that  
20 sense it's different from what the employer used to  
21 contribute before which was a formula that was a  
22 percentage of total payroll.

23 Q Mhm. Is this process automated now in some  
24 kind of a model?

25 A You need to ask ERS how it's done because they

1 MR. STEWART:

2 Q Okay. And so other than the hundred and ninety  
3 million four hundred no more...

4 A Approximately.

5 Q ...sure, other than the hundred ninety million  
6 four hundred thousand dollars no more ERS available funds  
7 were transferred to the Secretary?

8 A To the best of my knowledge.

**REDACTED**

1 DEPONENT:

2 Yes.

3 MR. STEWART:

4 Q How many visits did you have?

5 A I don't recall. Exactly but I can probably,  
6 maybe around four or five.

7 Q What were the names of the legislators you met  
8 with to discuss the statute?

9 A The, mostly the, Lourdes Ramos who heads the  
10 subcommittee on pensions of the house...

11 Q Mhm.

12 A ...and Senator Miguel Romero who heads the  
13 senate committee on, on pension related matters.

14 Q Okay. So let's go back to where we were.

15 A Yes.

16 Q It speaks about the payment the pensions  
17 systems are unable to make...

18 A Yes.

19 Q ...and was it your view at the time the pension  
20 systems were not able to make pension payments?

21 A They were facing liquidity issues, yes.

22 Q Were they able to make, pay any part of the  
23 pension payments to your knowledge?

24 A Remember that on July 1<sup>st</sup> they pre-funded 390  
25 million which was the, necessary to get the budget

1 certified and once that pre-funding was made...

2 Q Mhm.

3 A ...we did not go back to them.

4 Q Mhm. Okay. And that they, I think you told me  
5 the three ninety, one ninety point four came from the ERS?

6 A I believe one hundred and ninety, four hundred  
7 came from ERS.

8 Q And the rest came from the other systems?

9 A Mostly TRS if my memory doesn't fail.

10 Q Okay. And then the balance of the money at ERS  
11 stayed at ERS, correct?

12 A Yes.

13 Q In a still...

14 A You have, you have to confirm with ERS because  
15 I don't run their operation.

16 Q But to your knowledge.

17 A To the best of my knowledge, yes.

18 Q And, and it is still there?

19 A To the best of my knowledge but you, you should  
20 confirm with the ERS office.

21 Q Okay. So let's go, oh, by the way, let's go to  
22 2, Page 2...

23 A Page 2-O...

24 Q ..the number, okay, now we're doing numbered  
25 pages. First paragraph, the bottom of the paragraph...

1 Q Mmhm.

2 A ...that I wouldn't be able to do, I'd be  
3 speculating.

4 Q So when I'm asking you about of the amount of  
5 the invoice..

6 A Mmhm.

7 Q ...do you see that AAFAF comes up with you  
8 don't know one way or the other whether the amount of the  
9 invoice reflects payments going, being made in the present  
10 year are payments that are going to be made...

11 A Well...

12 Q ...in a coming year...

13 A No, because...

14 Q ...is that right?

15 A ...what, what happens, you have, you have to  
16 distinguish two things, right, the actual budgeting, we  
17 cannot say, you know, we don't know who's going to retire  
18 when or who's going to die when so you cannot do one  
19 estimate based on, on like the latest information that you  
20 have for budgeting purposes because the budget is, for  
21 example, this year's or next year's Fiscal Budget is going  
22 to be certified sometime by, prior to June 30<sup>th</sup>, right...

23 Q Mmhm.

24 A ...so there you, you had to get the entities,  
25 hey, you know, we think your Pay-Go charge would be X or



1 Y, now if people die faster or if you have additional  
2 people who retired because, remember, at the end of the  
3 day looking into the future is, is more of an actuarial  
4 type exercise...

5 Q Mhm.

6 A ...because we don't know who's going to be  
7 alive or retired in January of 2020...

8 Q Mhm.

9 A ...right? So you have an estimate of that  
10 payment, now, my understanding is that estimate of Pay-Go  
11 is what goes into the budgeting process. Obviously what  
12 goes into the the budgeting process might not end up being  
13 the actual expense because you might, what I just  
14 explained, people might die, people might retire and that  
15 obviously will, will change that so the, you question by  
16 saying "is it annual or is it monthly" I think is a little  
17 bit misleading or imprecise for the reasons I just  
18 described to you.

19 Q Mhm. So in determining the amount that the  
20 Pay-Go charge will be what document does AAFAF rely on?

21 A The ones that we rely on now are obviously we  
22 take the latest Pay-Go charges from, for example, to do  
23 the, the incoming fiscal year, last budget, for example,  
24 you take the latest, the most recent month of Pay-Go  
25 charge which...

1 Q Mhm.

2 A ...presumably reflect the pensioners that were  
3 active or alive and, and retired at that moment and what  
4 we do is we kind of, my understanding is that it gets  
5 combined with the actuarial estimate of what would be the,  
6 the actual charge by or the actual actuarial estimation of  
7 the Retirement Benefits and I believe a, a process of  
8 taking the actuarial estimation and the, this results in  
9 a Pay-Go charge.

10 Q Where does the actuarial estimation come from?

11 A I believe Milliman is the current actuary for  
12 both, for all three systems I believe.

13 Q Mhm. In what form does this information come  
14 from Milliman?

15 A I believe it's letters that we ask them to, to  
16 provide the estimates, they, you know, ERS gives them the  
17 population who died, who, you know, the detail and I  
18 believe Milliman performs their actuarial studies and I  
19 guess they produce on an employer by employer basis, what  
20 they believe the actuarial liability I think they usually  
21 forecast forward a couple of years or something. I'm not  
22 an actuarial, so I refer you to their actuarial reports  
23 which...

24 Q Mhm.

25 A ...which speak for themselves.

1           Q     Do you know what kind of models or, it's just  
2     what sort of models, I'll just withdraw that. Do you know  
3     what kind of models Milliman uses to come up with this,  
4     this employer by employer...

5           A     I would be speculating, I'm not an actuarial,  
6     how do you say it, actuarial?

7     MR. SUSHON:

8           Actuary.

9     DEPONENT:

10           ...actuary in English, sorry, my...

11     MR. STEWART:

12           Q     Mmhm.

13           A     ...my English is a little rusty. I'm not an  
14     actuary so I have no idea, I just know that they sent me  
15     a letter, it has numbers, that's the number.

16           Q     Okay. And...

17     MR. SUSHON:

18           Excuse, excuse me one second, it doesn't need to be  
19     right away but a health break for counsel...

20     MR. STEWART:

21           Yeah.

22     MR. SUSHON:

23           ...would be appreciated...

24     MR. STEWART:

25           Good.

1 an ERS for 2011 the list of expenses were 28.5, other  
2 expense is 18.8 and in 2015 it was 25.9, 43.1 and I guess  
3 they have an average at the bottom.

4 Q Mhm. To your knowledge, is this accurate?

5 A Well, they pay in, I mean, I don't pay, but ERS  
6 and TRS pays him a lot of money to, to be accurate, so  
7 presumably that, that is their job as they were supposed  
8 to do, that's, yes.

9 Q Would you know what the administrative expenses  
10 have been since Fiscal Year 2015-2016?

11 A I would refer you to, to the, to individual  
12 systems.

13 Q You don't have any independent knowledge?

14 A No.

15 Q Okay.

16 A Let's go back to our Exhibit 10 and in  
17 particular Page 30.

18 Q Yes.

19 A There's something about "Transitory  
20 Provisions", do you see that...

21 Q Yes.

22 A ...on Page 30?

23 Q At the right bottom and in section 51-C it  
24 says: "Retirement system administrators shall take all  
25 necessary steps to liquidate their assets and transfer the

1 proceeds to the General Fund" and it goes to talk about  
2 other things. Do you know if ERS in fact has done that?

3 MR. SUSHON:

4 Object to the form.

5 DEPONENT:

6 Besides the pre-funding of the 190 million dollars?

7 MR. STEWART:

8 Q Mhm.

9 A To the best of my knowledge, no.

10 Q Do you know why they have not?

11 A That's privileged.

12 MR. SUSHON:

13 You can answer his question yes or no, it's whatever  
14 you do know, a reason for that.

15 DEPONENT:

16 I, yes I know, it's privileged.

17 MR. SUSHON:

18 Okay.

19 MR. STEWART:

20 Q His answer is you know why but you can't tell  
21 me, is that right?

22 A Exactly.

23 Q Okay. Do you know whether the statute was  
24 amended to allow ERS to not transfer all the proceeds to  
25 the General Fund?